

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

EDWARD R. COSS, JR.,	:	
Petitioner	:	
	:	
vs.	:	CIVIL ACTION NO. 1:CV-01-0878
	:	
JAMES P. MORGAN, et al.,	:	
Respondents	:	

O R D E R

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Petitioner has filed a motion to stay the proceedings in this 28 U.S.C. § 2254 case, giving as a reason that Petitioner's request with the United States Court of Appeals for the Third Circuit for authorization to file a second petition pursuant to 28 U.S.C. § (b) (3) (A) is still pending. The magistrate judge has filed a report recommending that the motion be denied.

We agree with the magistrate judge. Our consideration of the instant petition would be independent of any success Petitioner would have in filing a second 2254 petition.

AND NOW, this 7th day of October, 2004, upon consideration of the report (doc. 22) of the magistrate judge, filed August 16, 2004, to which no objections were filed, and upon independent review of the record, it is ordered that:

1. The magistrate judge's report is adopted.

2. The motion (doc 20) to stay these proceedings is denied.

3. This matter is remanded to the magistrate judge for further proceedings.

/s/William W. Caldwell

William W. Caldwell

United States District Judge